

STATE OF NORTH CAROLINA  
COUNTY OF GASTON

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
16 EHR 02790

BUCKEYE FIRE EQUIPMENT COMPANY Petitioner,  v.  NC DEPARTMENT OF ENVIRONMENTAL QUALITY Respondent.	SETTLEMENT AGREEMENT
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The North Carolina Department of Environmental Quality, Division of Waste Management, Hazardous Waste Section (“the Section”), and Buckeye Fire Equipment Company (“Buckeye”) enter into this Settlement Agreement in order to amicably resolve matters in controversy between them fully and finally. The Section and Buckeye shall be referred to collectively herein as “the Parties.”

The instant matter arose out of the issuance of a Compliance Order with Administrative Penalty in Docket No. 2016-002 (“the Order”), by the Section against Buckeye on February 10, 2016, for alleged violations of the laws and rules governing the management of hazardous waste, as contained in Article 9 of Chapter 130A of the North Carolina General Statutes, and the rules promulgated thereunder and codified in Subchapter 13A of Title 15A of the North Carolina Administrative Code (collectively “the State Hazardous Waste Program”).

The Parties participated in a mediated settlement conference on May 31, 2016. Based on information presented during and subsequent to that settlement conference, and in order to avoid the cost and delay of litigation, the Section and Buckeye have reached the following agreement:

1. This Settlement Agreement is a negotiated compromise between the Parties. Neither this Settlement Agreement nor any action on the part of the Parties hereto shall be deemed an admission of liability with regard to the alleged violations of the State Hazardous Waste Program cited in the Order.
2. Buckeye shall pay to the Section a recomputed penalty in the amount of forty-seven thousand two hundred and ninety-six dollars and thirty-six cents (\$47,296.36) in settlement of the penalty assessed in the Order. The Section agrees to accept the payment of the recomputed penalty in complete satisfaction of the original penalty assessed in the Order, subject to the terms of this Settlement Agreement. Buckeye shall pay the recomputed penalty in one installment within sixty (60) days of the execution of this Settlement Agreement.
3. In accordance with N.C.G.S. § 130A-22(j), and as outlined in Paragraph 3 of the “Conditions for Continued Operation” section of the Order, the Section also assessed investigative and inspection costs to Buckeye totaling one thousand five hundred sixty-two dollars and sixty-four cents (\$1,562.64). Buckeye shall pay these costs to the Section in one installment within sixty (60) days of the execution of this Settlement Agreement.
4. The payments required under Paragraphs 2 and 3 of this Settlement Agreement shall be made by certified check or money order, payable to the Division of Waste Management, and mailed to Julie S. Woosley, Chief, Hazardous Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646.
5. Within 45 days of the execution of this Settlement Agreement, Buckeye will identify all solid waste streams it generates and disposes offsite. Filter cake generated from the filter press, which is currently managed as hazardous waste, is not included within this

requirement to identify waste streams.

6. Within 180 days of the execution of this Settlement Agreement, Buckeye will cause to be performed a Toxicity Characteristic Leaching Procedure (TCLP) test on all solid waste streams it identified pursuant to Paragraph 5. Any waste identified pursuant to Paragraph 5 will not be sent off-site for disposal until the result of the TCLP test is received by the Section.
7. Excluding the waste streams identified in the Order, Buckeye shall undertake the actions described in Paragraphs 5 and 6 of this Agreement as part of an Environmental Audit conducted pursuant to N.C. Session Law 2015-286.
8. Buckeye may request an extension of the compliance dates required by Paragraphs 5 and 6 of this Settlement Agreement, which request will be granted by the Section for good cause shown.
9. Buckeye expressly waives its right to an administrative hearing on the Order. Within ten (10) days of the full execution of this Settlement Agreement, Buckeye shall file with the Office of Administrative Hearings a Notice of Dismissal with Prejudice, withdrawing its Petition for a Contested Case Hearing in *Buckeye Fire Equipment Company v. North Carolina Department of Environmental Quality, Hazardous Waste Section*, 16 EHR 02790.
10. Buckeye expressly stipulates and acknowledges that, by entering into this Settlement Agreement, it waives for purposes of collection of the above-described recomputed penalty, fees, and costs any and all defenses to the underlying assessment of said penalty, fees, and costs, and that the issue in any action to collect the penalty, fees, or costs will be limited to the payment or non-payment thereof in accordance with the terms of this

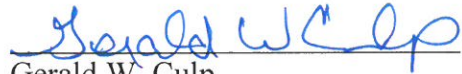
Settlement Agreement.

11. Nothing in this Settlement Agreement shall restrict the right of the Section to inspect Buckeye and take enforcement action against Buckeye for any new, subsequent or repeat violations of the State Hazardous Waste Program; provided, however, that no alleged violation cited in the Order shall be the underlying violation for a repeat violation in any future enforcement action. It is further understood that Buckeye may contest any subsequent enforcement action based on allegations of new, subsequent or repeat violations, to the extent such right is provided in Chapter 130A of the North Carolina General Statutes.
12. Buckeye and the Section agree that each shall bear its own costs related to any disputes covered by this Settlement Agreement. Neither Buckeye nor the Section shall apply for attorney fees or costs under any rule or law, and neither shall be liable for any attorney fees, costs, or expenses incurred by the other, except as otherwise provided in this Settlement Agreement.
13. Buckeye and the Section agree that the consideration for this settlement is in the promises contained herein, that this Settlement Agreement contains the whole agreement between them, and that there are no understandings or agreements, verbal or otherwise, regarding this Settlement Agreement except as expressly set forth herein.
14. This Settlement Agreement is contractual in nature and not just a recitation of terms. The language of this Settlement Agreement shall be construed, enforced, and governed by the laws of the State of North Carolina.
15. Each provision of this Settlement Agreement is intended to be severable, and if any provision is held to be invalid, illegal, or unenforceable in any respect, such invalidity,

- illegality, or unenforceability shall not affect or impair any other provision of this Settlement Agreement, but this Settlement Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained therein.
16. This Settlement Agreement shall be binding upon and inure to the benefit of the assigns, heirs, executors, and administrators of Buckeye and to the Section, its officials, managers, employees, assigns, predecessors, and successors.
17. This Agreement shall be binding upon the Parties upon execution by the undersigned. The Agreement becomes effective on the last date of the signatures of the undersigned.
18. The corporate <sup>representative</sup> ~~officer~~ signing on behalf of Buckeye hereby warrants that he is competent to enter into this Settlement Agreement, that he has authority to enter into this Settlement Agreement on behalf of Buckeye, and that no court or tribunal of competent jurisdiction has found him to be incompetent or otherwise incapable of handling his business affairs or entering into a binding agreement or contract.
19. The undersigned representative of Buckeye hereby acknowledges that he has read this Settlement Agreement, conferred with his attorney or had the opportunity to confer with an attorney, fully understands the contents of the Settlement Agreement, consents to the settlement of claims on the terms set forth herein, and does so in reliance upon his own judgment and, if represented by counsel, the advice of his attorney, and not in reliance on any other representations or promises of the Section, its representatives, or its attorneys.

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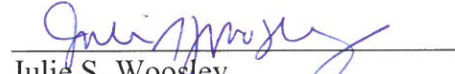
**For Buckeye Fire Equipment Company**



Gerald W. Culp  
Plant Manager

5-31-16  
Date

**For North Carolina Department of  
Environmental Quality**



Julie S. Woosley  
Section Head

5/31/16  
Date